

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 05-0020P

Sales Tax

For the months January, February, April, May, July, and August 2004

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ISSUE

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2;

The taxpayer protests the late penalty.

STATEMENT OF FACTS

The late penalty was assessed on the late payment of sales tax for the months January, February, April, May, July, and August 2004.

The taxpayer is a company residing outside Indiana.

I. **Tax Administration** – Penalty

DISCUSSION

The taxpayer requests the late penalty be abated as the taxpayer misunderstood the EFT instructions and paid the tax quarterly.

The Department had sent instructions that the tax was to be paid monthly with the recap filed quarterly.

45 IAC 15-11-2(b) states, "Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions

provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.”

The Department finds the taxpayer was inattentive of tax duties. Inattention is negligence and negligence is subject to penalty. As such, the Department finds the penalty proper and denies the penalty protest.

FINDING

The taxpayer’s penalty protest is denied.